

U fokusu: *Zakon o izmenama i dopunama Zakona o postupku upisa u katastar nepokretnosti i vodova i Zakon o izmenama i dopunama Zakona o državnom premeru i katastru*

Dana 4. novembra 2023. na snagu su stupile odredbe Zakona o izmenama i dopunama Zakona o postupku upisa u katastar nepokretnosti i vodova i Zakona o izmenama i dopunama Zakona o državnom premeru i katastru koji donose novine u pogledu efikasnosti upisa u katastar odnosno centralizaciji upisa svih vrsta infrastrukturnih i podzemnih objekata u jednoj bazi podataka.

U nastavku ovog teksta slede neke od najznačajnijih izmena navedenih zakona.

I. ZAKON O IZMENAMA I DOPUNAMA ZAKONA O POSTUPKU UPISA U KATASTAR NEPOKRETNOSTI I VODOVA

Izmene i dopune ovog zakona su donete kako bi se pojednostavio i ubrzao postupak upisa u katastar, te kako bi se otklonili nedostaci uočeni u njegovoj dosadašnjoj primeni.

Prva značajna novina jeste promena naziva ovog zakona koji sada glasi: „**Zakon o postupku upisa u katastar nepokretnosti i katastar infrastrukture**“ kako bi se terminološki uskladio sa Zakonom o izmenama i dopunama Zakona o državnom premeru i katastru. Pored izmene naziva zakona, izvršena je i, između ostalog, izmena pojmova „list nepokretnosti“ u „izvod iz baze podataka katastra nepokretnosti“ i „list vodova“ u „izvod iz baze podataka katastra infrastrukture“.

In focus: *Law on amendments and supplements of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities and Law on amendments and supplements of the Law on State Survey and Cadastre*

On 4 November 2023 provisions of the Law on amendments and supplements of the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities and Law on amendments and supplements of the Law on State Survey and Cadastre came into effect stipulating innovations regarding the efficiency of registration in the cadastre, i.e. centralization of registration of all types of infrastructural and underground facilities, in one database.

Below are introduced some of the most significant changes to the aforementioned laws.

I. LAW ON AMENDMENTS AND SUPPLEMENTS OF THE LAW ON THE REGISTRATION PROCEDURE WITH THE CADASTRE OF REAL ESTATE AND UTILITIES

Amendments and supplements of this law should simplify and speed up the registration process in the cadastre, and eliminate the shortcomings observed in its application so far.

The first significant novelty is the change in the name of this law, which now reads: "**Law on the Registration Procedure with the Cadastre of Real Estate and Infrastructure Cadastre**" in order to harmonize the terminology with the Law on Amendments to the Law on State Survey and Cadastre. In addition to changing the name of the law, among other things, the terms "real estate sheet" were changed to "extract from the real estate cadastre database" and "utilities sheet" to

Dalje, uređen je način utvrđivanja jedinstvenog matičnog broja nepokretnosti („**JMBN**„) tako što se za svaku nepokretnost pojedinačno određuje i upisuje JMBN. U postupku upisa nepokretnosti u katastar Geodetsko-katastarskog informacionog sistema („**GKIS**“) za svaku nepokretnost se pojedinačno automatski dodeljuje JMBN koji prati životni ciklus nepokretnosti. Ako dođe do promena na nepokretnosti kojoj je utvrđen JMBN (deoba i spajanje nepokretnosti, uklanjanje objekta, dela objekta ili posebnog dela objekta), u postupku upisa promene za tu nepokretnost se određuje novi JMBN, a prethodno dodeljeni se arhivira u GKIS-u.

Od posebnog značaja je izmena odredbe koja propisuje način na koji stranka može podneti zahtev za upis katastar nepokretnosti. Naime, stranka može podneti zahtev za upis putem e-šaltera, preko profesionalnog korisnika koji je ovlašćen da vrši digitalizaciju dokumenta izdatog u papirnoj formi, a takav zahtev mora biti podnet na elektronskom obrascu. Dakle, od sada će se svi zahtevi podnositi isključivo elektronskim putem, preko profesionalnih korisnika – advokata i geodetskih organizacija što treba da obezbedi efikasan upis u katastar, uz proveru ispravnosti dokumenata od strane profesionalnih korisnika.

U cilju prevazilaženja problema upisa u katastar nepokretnosti po službenoj dužnosti, po sili zakona, u propisanim kratkim rokovima, u skladu sa posebnim zakonima, po kojima se prethodno mora utvrditi ispunjenost uslova za sticanje prava

"extract from the infrastructure cadastre database".

Furthermore, the method of determining the unique registration number of real estate ("**URNRE**") has been regulated by determining and entering the URNRE for each real estate individually. In the process of registering real estate in the cadastre of the Geodetic-Cadastre Information System ("**GCIS**"), each real estate is automatically assigned an URNRE that follows the life cycle of the real estate. If there are changes to the real estate for which the URNRE has been determined (division and merger of real estate, removal of an object, part of an object or a special part of an object), a new URNRE is determined for that real estate in the process of registering the change, and the previously assigned one is archived in GCIS.

Of particular importance is the amendment of the provision that prescribes the manner in which a party can submit a request for registration in the real estate cadastre. Namely, the party can submit a request for registration through the e-counter, through a professional user who is authorized to digitize a document issued in paper form, and such a request must be submitted on an electronic form. Therefore, from now on, all requests will be submitted exclusively electronically, through professional users – attorneys at law and geodetic organizations, which should ensure efficient registration in the cadastre, with verification of the correctness of documents by professional users.

In order to overcome the problem of registration in the real estate cadastre ex officio, within prescribed short deadlines, in accordance with special laws, according to which the fulfilment of the conditions for the acquisition of rights

propisanih tim zakonom, uz utvrđivanje činjenica i izvođenje dokaza, u ispitnom postupku i uz vođenje usmene rasprave, kao i povećanja ažurnosti u rešavanju predmeta, izmenjene su odredbe koje se odnose na upis po službenoj dužnosti, po sili zakona. Naime, takav upis se vrši ako je posebnim zakonom propisano da se upis vrši bez donošenja rešenja i bez utvrđivanja ispunjenosti uslova za upis u katastar, u skladu sa programom realizacije aktivnosti na sprovođenju zakona, kao i na osnovu obrazloženog predloga nadležnog organa, kada utvrdi ili sazna da se, s obzirom na činjenično stanje, postupak mora pokrenuti u interesu stranke ili kada je radi zaštite javnog interesa neophodno pokrenuti postupak u skladu sa programom realizacije aktivnosti u postupku upisa. Navedene programe donosi Republički geodetski zavod, uz saglasnost Vlade.

Takođe, precizirano je da se odstupanje od redosleda prvenstva ne odnosi samo na upise koji se vrše na osnovu propisa kojim se uređuje eksproprijacija, već i na upise za potrebe eksproprijacije (npr. parcelacija i preparcelacija za potrebe eksproprijacije), te da se ne može propisati pretpostavka izvršenog upisa u katastar, pre nego što je doneta odluka kojom se vrši upis u katastar.

Novina je i to što od sada preduzetnici i privredna društva upisana u Registar posrednika u prometu i zakupu nepokretnosti mogu izdavati izvode, koji imaju istu važnost kao da ih je izdao Republički geodetski zavod.

prescribed by that law must be determined beforehand, along with the establishment of facts and presentation of evidence, in examination procedure and with the conduct of an oral hearing, as well as increasing the timeliness in solving cases, the provisions related to ex officio registration. Namely, such registration is carried out if a special law prescribes that registration is carried out without passing decision and without determining the fulfilment of the conditions for registration in the cadastre, in accordance with the implementation program of law enforcement activities, as well as based on the reasoned proposal of the competent authority, when it determines or learns that, considering the factual situation, the procedure must be initiated in the interest of the party or when in order to protect the public interest, it is necessary to start the procedure in accordance with the programme of realization of activities in the enrolment procedure. The mentioned programmes are adopted by the Republic Geodetic Authority, with the consent of the Government.

Also, it was specified that the deviation from the order of priority does not only apply to registrations made on the basis of the regulations regulating expropriation, but also to registrations for the purposes of expropriation (e.g. parcelling and re-parcelling for the purposes of expropriation), and that it cannot be prescribed the presumption of registration in the cadastre, before the decision of registration in the cadastre was made.

From now on, entrepreneurs and companies registered in the Register of Intermediaries in Real Estate Transactions and Leases can issue sheets, which have the same validity as those issued by the Republic Geodetic Authority.

II. ZAKON O IZMENAMA I DOPUNAMA ZAKONA O DRŽAVNOM PREMERU I KATASTRU

Izmene i dopune ovog zakona treba da omoguće centralizovani upis svih vrsta infrastrukturnih i podzemnih objekata u jedinstvenu bazu podataka. Naime, prethodno važeći zakoni nisu pružali jedinstven okvir za upis određenih vrsta infrastrukturnih i podzemnih objekata, pri čemu su se neki upisivali u bazu podataka katastra nepokretnosti, neki u bazu podataka katastra vodova, a za određene vrste objekata nije bilo moguće ili adekvatno izvršiti upis u pomenute baze podataka. Stoga su nova zakonska rešenja usmerena ka stvaranju sveobuhvatne baze podataka, što bi trebalo da olakša i unapredi evidenciju svih infrastrukturnih i podzemnih objekata na jednom mestu.

Novina je i terminološko usklađivanje, a najznačajnija izmena u tom pogledu je zamena pojma „katastar vodova” pojmom „katastar infrastrukturnih i podzemnih objekata” (skraćeno: „katastar infrastrukture”).

Izmenama i dopunama se propisuje da nova baza podataka katastra infrastrukture predstavlja skup geoprostornih i drugih podataka o infrastrukturnim i podzemnim objektima, stvarnim pravima na njima i imaoćima stvarnih prava, a naročito sadrži sledeće tematske celine:

1. saobraćaj (kopneni, vodni i vazdušni saobraćaj);
2. podzemne i nadzemne instalacije (vodovi);
3. elektronske komunikacione mreže i sredstva;
4. podzemni objekti.

II. LAW ON AMENDMENTS AND SUPPLEMENTS OF THE LAW ON STATE SURVEY AND CADASTRE

Amendments and supplements to this law should enable the centralized registration of all types of infrastructure and underground facilities in a single database. Namely, the previously valid laws did not provide a single framework for the registration of certain types of infrastructure and underground facilities, whereby some were registered in the real estate cadastre database, some in the utilities cadastre database, and for certain types of facilities it was not possible or adequate to register in the mentioned databases. Therefore, the new legal solutions aim to create a comprehensive database, which should facilitate and improve the records of all infrastructure and underground facilities in one place.

Terminological harmonization is also altered, and the most significant change in this regard is the replacement of the term "utilities cadastre" with the term "cadastre of infrastructure and underground facilities" (abbreviated: "cadastre of infrastructure").

Amendments and supplements stipulate that the cadastre of infrastructure database presents a set of geospatial and other data on infrastructural and underground facilities, property rights on them and owners of property rights, and in particular contains the following thematic units:

1. traffic (land, water and air traffic);
2. underground and above ground installations (utilities);
3. electronic communication networks and means;
4. underground facilities.

Ovakav sveobuhvatni pristup ima za cilj da olakša pristup informacijama i podacima putem integriranog Geodetsko-katastarskog informacionog sistema, koji obuhvata sve objekte iz katastra nepokretnosti, kao i različite vrste infrastrukturnih objekata na određenoj lokaciji. Osim toga, ovaj pristup treba da omogući bolji grafički prikaz infrastrukture, da poboljša mogućnosti prostornog planiranja, smanji rizik od oštećenja podzemnih i nadzemnih instalacija (vodova) tokom izgradnje novih objekata i olakša realizaciju projekata parcelacije i preparcelacije na zemljištu iznad podzemne infrastrukture. Ovakva organizacija takođe ima za cilj optimizaciju upravljanja infrastrukturom i treba da omogući efikasno upravljanje vlasništvom infrastrukture, uključujući mogućnost prodaje, stavljanja hipoteke, davanja u zakup i slično.

Informacioni sistem za katastar infrastrukturnih i podzemnih objekata Republički geodetski zavod je dužan da uspostavi najkasnije do 1. jula 2025.

Cilj izmena i dopuna je i poboljšanje pouzdanosti i tačnosti podataka o nepokretnostima i sprečavanje zloupotreba u radu geodetskih organizacija. Stoga je sada predviđeno oduzimanje licence geodetskoj organizaciji ako dostavi elaborat geodetskih radova i zapisnik o izvršenom uviđaju o nepostojećim promenama ili sa neistinitim podacima, ili dostavi elaborat koji je izradilo lice koje nije zaposleno, odnosno angažovano u toj geodetskoj organizaciji. Dodato je i ovlašćenje inspektora da zabrani geodetskoj organizaciji izvođenje geodetskih radova na period od mesec dana ako ponovi utvrđene nepravilnosti u roku od jedne godine od prvobitno naloženih

This comprehensive approach aims to facilitate access to information and data through an integrated Geodetic-Cadastre Information System, which includes all objects from the real estate cadastre, as well as different types of infrastructure objects at a specific location. In addition, this approach should enable a better graphical representation of the infrastructure, improve the possibilities of spatial planning, reduce the risk of damage to underground and above-ground installations (utilities) during the construction of new buildings, and facilitate the implementation of parcelling and re-parcelling projects on the land above the underground infrastructure. Such an organization also aims to optimize infrastructure management and should enable efficient management of infrastructure ownership, including the possibility of selling, mortgaging, leasing, etc.

Republic Geodetic Authority is obliged to establish the information system for the cadastre of infrastructural and underground facilities by 1 July 2025 at the latest.

Amendments and supplements also tend to improve the reliability and accuracy of real estate data and prevent abuses in the work of geodetic organizations. Therefore, it is now prescribed revocation of the license of a geodetic organization if it submits a study of geodetic works and a report on the inspection of non-existent changes or with untrue data, or submits a study prepared by a person who is not employed, i.e., engaged in that geodetic organization. The inspector's authority was added to prohibit the geodetic organization from performing geodetic works for a period of one month if it repeats the determined irregularities within one year of the

mera za njihovo otklanjanje. Pored toga, dopunjena je odredba koja predviđa obavezu geodetske organizacije da Republičkom geodetskom zavodu prijavi određene promene, te je sada precizirano da je dužna da prijavi promenu poslovnog imena, odnosno naziva, pravne forme, sedišta, adrese poslovnog prostora van sedišta, promenu broja zaposlenih lica, geodetskih instrumenata i svaku drugu promenu koja je od značaja za njen rad, u roku od 15 dana od dana nastanka promene, a dodata je i obaveza da po zahtevu inspektora sačini i dostavi izveštaj o samoproveri ispunjenosti zahteva iz kontrolne liste i samoproceni rizika, u roku od 15 dana od dana prijema zahteva.

Ovim izmenama i dopunama tekst zakona je takođe usklađen sa međunarodnim standardima i uputstvima najbolje prakse u oblasti masovne procene vrednosti nepokretnosti i vođenja registra cena nepokretnosti.

Odricanje od odgovornosti: Tekst je objavljen u opšte informativne svrhe i ne predstavlja pravni savet.

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originally ordered measures to eliminate them. In addition, the provision that stipulates the obligation of the geodetic organization to report certain changes to the Republic Geodetic Authority has been amended, and it is now specified that it is obliged to report the change of business name, i.e. name, legal form, seat, address of business premises outside the seat, change in the number of employees, geodetic instruments and any other change that is important for its work, within 15 days from the date of the change, and the obligation to prepare and submit a report on self-verification of the fulfilment of the requirements from the checklist and self-assessment of risk at the inspector's request, in within 15 days from the date of receipt of the request.

With these amendments, the text of the law is also aligned with international standards and best practice guidelines in the field of mass real estate valuation and maintaining a real estate price register.

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